

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

PHOENIX LIFE INSURANCE COMPANY and
PHL VARIABLE INSURANCE COMPANY,

Plaintiffs,

v.

RAIDER-DENNIS AGENCY, INC., et al,

Defendants.

Civ. No. 2:07-cv-15324

consolidated with

Civ. No. 2:08-cv-11562

Honorable Stephen J. Murphy, III

Honorable Mona K. Majzoub

**JOINT STATEMENT OF RESOLVED AND UNRESOLVED ISSUES
REGARDING ROSEN AND ROSEN TRUST'S MOTION TO COMPEL**

Pursuant to the Court's Order for Submission and Determination of Motion Without Oral Hearing dated November 18, 2009 (Docket No. 51), the parties, including Robert Rosen, Frank J. Ellias (collectively, "the Rosen Parties"), Phoenix Life Insurance Company, and PHL Variable Insurance Company (collectively, "Phoenix"), hereby state the following resolved and unresolved issues relating to Rosen and Rosen Trust's Motion to Deem Admitted Requests for Admission and to Compel Plaintiffs' Answers to First Set of Interrogatories and Requests for Production of Documents dated October 30, 2009 (Docket No. 46):

1. The Rosen Parties' Requests for Admission Nos. 1 and 2 are both still at issue. The parties dispute whether Phoenix's responses and objections were timely served, whether the objections have merit, and whether the requests should be deemed admitted. These issues are unresolved.

2. The Rosen Parties' Document Requests Nos. 1 through 20 are all still at issue.
 - a. The parties dispute whether Phoenix's objections were timely served. This issue remains unresolved.
 - b. The parties dispute whether Phoenix's objections to Document Requests Nos. 1-12 and 14-17 have merit. This issue remains unresolved.
 - c. Phoenix takes the position that compulsion is not in order because Phoenix had already agreed to produce documents, subject to its objections, responsive to Document Requests Nos. 3, 4, 5, 6, 7, 8, 9, 10, 12, 14, 15, and 17. The Rosen Parties disagree and believe that compulsion is still necessary. This dispute remains unresolved.
3. The Rosen Parties' Interrogatories Nos. 1 through 12 are all still at issue.
 - a. The parties dispute whether Phoenix's objections and answers were timely served. This issue remains unresolved.
 - b. The parties dispute whether Phoenix's objections to Interrogatories Nos. 9-10 have merit. This dispute remains unresolved.
 - c. Phoenix takes the position that it has provided answers to all twelve of the Interrogatories and that the Rosen Parties have not specified additional information that has been improperly withheld. This issue remains unresolved.

4. The Rosen Parties' Notice of Rule 30(b)(6) Depositions of both Phoenix entities is still in issue. Phoenix moved separately for a protective order regarding those depositions. This issue remains unresolved.

DATED: December 4, 2009

Respectfully submitted,

Ellias & Elias, P.C.

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